



Governor's Task Force on the Study of Kentucky's Alcoholic Beverage Control Laws

Licensing Committee Meeting – November 29, 2012 – 9:00 a.m.

Committee Chair – Stephanie Stumbo, Kentucky ABC Malt Beverage Administrator

Minutes

A meeting of the Governor's Task Force Licensing Committee was held November 29, 2012 at 9:00 a.m. at the offices of the Department for Local Government, 1024 Capital Center Dr., Ste. 340, Frankfort, Kentucky.

Opening Remarks: Committee Chair Stephanie Stumbo called the meeting to order.

Roll Call:

Committee Members Present: – Jitter Allen, Larry Bond, Mayor Tom Bozarth, Representative Larry Clark, Commissioner Tony Dehner, Jennifer Doering, Gene McLean (proxy for John Harris), Senator Jimmy Higdon, Representative Dennis Keene, Lowell Land, Roger Leasor, Dan Meyer, Chris Nolan (proxy for Eric Gregory), Administrator Danny Reed, Stacy Roof (proxy for Gay Dwyer), Administrator Stephanie Stumbo, Secretary Vance, Adam Watson and Neil Wellinghurst.

Committee Members Absent: –Gay Dwyer (proxy: Stacy Roof); Eric Gregory (proxy: Chris Nolan) and John Harris (represented by Gene McLean)

Others Present: Bryan Allman, Steve Amato, Bryce Amburgey, Dianne Andrews, Jason Baird, Cynthia Bohn, Dick Brown, Maurice Brown, Jeff Busick, Leo Camp, J.D. Chaney, John Clay, Renee Craddock, Sam Crain, Virginia Davis, Angie Donahue, Steve Humphress, , Scott Jones, Stacy Kula, Karen Lentz, Tim McGurk, Tara McGuire, Mike Peters, Sonya Semones, David Smith, Phil St. John, Janet Williams, and Russ Woodward

Approval of Minutes: The minutes from the Licensing Committee's November 13, 2012, meeting were sent to members via email for review prior to today's meeting. There being no further edits or revisions requested, Chair Stumbo called for a motion to approve the minutes and the motion carried. The minutes were approved by the committee members.

General Overview of Meeting Objectives:

Recap: Chair Stumbo opened the meeting with roll call. Stumbo stated the goal for today's meeting is to finalize the pending details on some of the recommendations document. Specifically, the recommendations in the document to be revisited, because there were remaining items pending that we were to address at this meeting, are recommendations #3, #4, #9, and #20. Because of the decisions or edits that might be made to #9 and #20, we may also reserve to re look at recommendation #16 and #2.

At a previous meeting - (and it is also something Karen Lentz said would be helpful as she tried to run numbers) - ABC's IT division was able to extract from the database, by license type, by fiscal year, on those licenses that pay a different amount by city class – a breakdown of the statistics by city class on each of those including number of licenses issues and revenues generated. All committee members were provided a copy of a document (not really for discussion, but Chair Stumbo wanted to make sure everyone had it so it would go with our document point forward) titled License Type Fee Break Down. This document breaks out every license type. Stumbo described the spreadsheet for the group. Stumbo stated under "Class," "NBC" means "Not by Class." Reflecting on those license types that license type does not have a different cost by class of city. The ones that do, like GOLF, it's just repeated on the document – if you look on the document, it says 1st, 2nd, and 3rd, all others – it gives you all the cost, how many of those licenses were issued by fiscal year, by class, and how much revenue for that license, by class, was earned.

The next documents provided to committee members today are repeat documents previously provided, as it is not possible for the two 6" binders to go forward. Chair Stumbo recommends these documents as attachments to the recommendations document because they reflect the actual statistical numbers from the Department for annual revenues from fiscal year '11 & '12 and the number of licenses issued. Stumbo stated these are important documents and will be required when the issue of looking at establishing license costs/fees, these two statistical documents will continue to be required this point forward to be able to accomplish that task. These have been provided again for informational purposes only.

The next two documents – one is marked "Duplicate," which is the same spreadsheet provided at the last meeting where Chair Stumbo took the statistical data and ran the averages per request of Rep. Clark – in the original document, there were some estimates utilized as required at the time – two accounting approaches had to be utilized if the Committee members recall those discussions – averages and estimates. That was because at the time, we didn't have of the licensing data for licenses that had different cost by class broken out, so Stumbo had to do estimates on those. Now that the Department has provided the additional statistical data to augment the original information those actual averages could be ran. The other document provided reflects revisions to the original averages spreadsheet, and it shows actual averages with no estimates and employees use of only one accounting procedure. It was run with the Department's final numbers. Both are being provided today so the changes and the impacts could be seen when you look at actual numbers and do true averages without estimates. These are provided for information purposes only. Again, are important informational materials to move forward with the recommendations for the Task Force and other entities who may work on

establishment of the revised licensing fee schedule. What is interesting is when you do actual averages on licenses where that have a different cost by city class, some of the estimates were a little lower than when it was done by an actual average. The price of some of those licenses didn't change and on some license types, they went up an additional \$10 - \$20. As the Committee can see the bulk of the licenses issued are in 1st and 2nd class cities, and there was less in the 3rd and 4th class. So taking the estimate was the more conservative approach. When you do actual averages, the numbers are skewed or the adjustments require change because there is less in the 3rd and 4th class cities than there are in the 1st and 2nd class cities. Again, these are real averages straight across, not utilizing multiple accounting approaches which made it very difficult to understand last meeting for many. This document is just averages. Chair Stumbo asked for questions regarding these two documents as she wants these two to follow the committee's document forward so everyone can reference those.

Review of Recommendations Document

Recommendation #3 – Temporary Licenses – (Page 10 & 11 of recommendations document provided today)

- This recommendation was already approved in regards to the exiting temporary licenses. The pending piece that was not resolved was the issue of defining “civic event.” The group, the Department, KACo, and KLC were tasked by Larry Bond and Representative Clark to attempt to define “civic event.” The last two paragraphs on page 11 of the recommendations document provided today included specific language that group came up with:
 - “an organized civic or community sponsored event” to mean “any public gathering of broad appeal where citizens are invited and encouraged to attend without significant cost of admission that is sponsored or acknowledged by the city or county government in which the event is conducted, including, but not limited to , any convention, conference, celebration, pageant, parade, festival, fair, public display, commemoration, or other type of public assemblage conducted for benefit and enjoyment of the general public.”
 - The last paragraph on page 11 addresses “for-profit,” which were the problems the committee was trying to solve, because temporaries are really for charitable organizations. The for-profit's who get charities to write a letter saying they are sponsoring the event, the new language will be:
 - The event must submit some written or documentary evidence that it is civic in nature such as, but not limited to, promotional material, new story article, local government acknowledgment – either a proclamation, resolution, letter, or nothing all – just something where we would have some flexibility depending on the variety that verifies it is not a mud-wrestling event that just wants beer sales.

Chair Stumbo called for any further comments or questions or objections regarding this new language. The documents were provided in advance to committee members. Stumbo noted

she will call a vote on the new language defining “civic event.” She clarified that despite rumor and miscommunication that has previously occurred in regards to these recommendations and the new language does not do away with temporary licenses. It does not change the existing political or charitable organization or how they do events and what they can do. It does better define, for a for-profit promoter, what types of events they can engage in. It does stop the abuse of the license type and utilizing non-profits as “sponsors” for events that they in fact really are not organizing or sponsoring at all. The way the language is written, it assures that, for example civic events like Thunder Over Louisville, Hillbilly Days, and some other of those civic events that are known civic events, would still be permissible. When trying to narrow it more, you can accidentally leave a desired event out. You can’t predict every event that might be asked for, and this gives the most flexibility while limited the abuse. It still leaves some discretion, but there were some issues and consequences that would result in attempting to remove all discretionary review.

Larry Clark commented on a great job and made a motion to approve Recommendation Proposal #3.

DECISION: Chair Stumbo called for a second to the motion which was received. She called for any opposition, and hearing none, the motion unanimously approved.

Recommendation #4 – Modification of License Renewal Schedule – (pages 12-14 of recommendations document provided today)

This recommendation is one that was also approved in totality previously. It was brought up at the last meeting because we were trying to work with Dan Meyer’s association to coordinate or get something that worked for everyone without creating additional problems. The proposal now includes more detail, and now includes a final proposal from ABC licensing staff that actually do the annual renewals for the state on the renewal schedule. Committee members were asked to review this recommendation proposal prior to today’s meeting. Chair Stumbo asked if anyone had any objections to what is being proposed. She reiterated the proposal does not have all counties and all licensees renewing once a year at the same time. It still has staggering renewals. It will allow the ABC staff to have February, March, May, July, and September as down months during which they will not have to do renewals and be able to do the other volume of work they have. Rep. Clark requested clarification that Jefferson and Fayette counties are still separate. Stumbo confirmed that Jefferson and Fayette are still separate; they are not by zip code anymore; they are by county boundary like all other counties; they do have their separate months; and they are staggered throughout the year. For those who read the document, you will notice, it keeps each month that the state staff is doing renewals, the volume around 1,300 – 1,500 average monthly renewals. This will eliminate getting hit heavy one month, and any confusion for the licensee’s. Renewals are being kept either in the same month, or as close to their current month which they already renew. The way Stumbo understands how the change was implemented years ago to a new renewal schedule was, if this were to be passed, and it doesn’t start on the actual annual renewal cycle, they wouldn’t pay a full year and then turn around 6 months later and pay another full year. It is pro-rated until they get on a cycle. Nobody will pay more. They will pay the exact amount until they get on a rotation of the actual renewal date.

DECISION: A motion was made to approve this Recommendation #4 as written. Chair Stumbo called for a second to the motion which was received. She called for any opposition, and hearing none, the motion unanimously approved.

Recommendation #9 – Bundling Souvenir Retail Liquor License and Sampling License with Distiller’s License - (pages 20-21 of recommendations document provided today)

#1- Sampling:

Chair Stumbo’s Disclaimer - This recommendation already passed, but if you read the responses to the assignments included in Eric Gregory’s (represented today by Chris Nolan), and Gay Dwyer had raised some continued concerns related to the bundling of sampling licenses. With those concerns still pending and unresolved and we had never finally decided to leave sampling bundled or back it back out – specifically, was the supplemental license known as the sampling license going to be remained bundled or not with all other licensing types eligible to receive it? Stumbo stated this supplemental license type is one that is an all-or-none proposition. More distillers acquired a sampling license, and off premises package retailers than on-premises retailers like restaurants and bars. Sixty some percent of distillers acquired it. Of the package stores, it was like thirty some percent (that’s not exact, but a ball park), and then the bars and restaurants drop all the way down to less than one percent. So Gay (and if I misspeak, please correct me), previously stated she does not oppose the bundling of the sampling license. What her concern was she just didn’t want the current cost, which \$100, to just be applied and added on to the primary license cost increasing the licenses by \$100 so everybody pays an extra \$100 whether they actually need/want the sampling license or not. Because only one percent of her retail group actually even buys it. Gay asked and suggested previously that if we keep it bundled, and both Karen and I provided examples of how this can be done more equitably too, was that you take an average or reduce the cost down where these folks are paying a fee or add on cost like an extra \$25 to add to the cost of the primary license instead of the additional cost of the \$100 being added. If you remember last meeting when I did the example numbers, you could do that and still be revenue neutral because you are dividing what income we get across all those eligible licensees – you can drive that cost below \$100 and still remain neutral by just adding the \$100 to everyone eligible to receive it whether they want or would utilize it or not, generates additional revenues not currently received. As that discussion progressed, Eric Gregory even has voiced he may want to revisit the bundling of possibly Souvenir with Distiller’s as well the sampling. So, it is back on our agenda today to give these entities one last chance to say whether they wish the Committee to consider un-bundling the sampling license completely? Un-bundling distiller’s license from the two supplemental licenses completely? Are they staying bundled, but we want to make sure that the cost of the bundled supplemental licenses are not straight cost add-ons and that it is more equitably assessed across all and charged as a fee or a reduced supplemental license cost as proposed?’ These are the final questions that are before the Committee today.

Stumbo asked which way the Committee preferred to go. Comments?

- Totally un-bundle all supplemental off the distillers license? or
- Leave them bundled with the understanding that they don’t want the cost of the sampling, just added on and their new licenses costs that amount more?

- Unbundle sampling from all eligible licenses and allow it to remain as it is for those eligible and wishing to purchase it as a specialty license?
 - Stumbo - Bundle sampling? Or are we bundling sampling contingent upon we don't just add the \$100 to all and assure that when the fee schedule is created that it is equitably averages across all licenses types eligible to receive it?
 - Rep. Clark – the fairest way to do it is to keep them separate and if they do the sampling, they pay an extra fee because some people don't do the sampling. A decision needs to be made because the train is moving.
 - Stumbo - Motion on the floor is to leave sampling un bundled as it is now, which is a stand-alone, special supplemental license. That's okay and as previously stated is a valid option.
 - Rep. Clark – What does the administration think and what does it do for the office? I'm trying to streamline...that is our task or goal.....
 - Stumbo – That is what we currently do. It just doesn't reduce the number of licenses or streamline any but it does not add anything different or more to the Department either, all remains the same as it is now. We bundled that one because Eric and several said their folks already have to buy it, and it was easier for them to have the three they buy under one license, because they currently have to buy them separate. There is no opposition to the Committee's decision either way they go we just need a final opinion or decision no right or wrong answer to this one. It just adds a license type back instead of reducing by one.
 - Rep. Clark – Recommends leaving it separate since nobody is speaking up call this item for final vote, let's move on.....
 - Karen Lentz – We are good to leave sampling separate
 - Chris Nolan- We are ok with it
 - Stumbo- Any other comments? Gay is not here but.....

DECISION: Stumbo clarified the motion on the floor is we are backing sampling out from being bundled with all other license types that are eligible to hold it, and this will affect several others within the licensing recommendations not just the distillers license, because it is peppered throughout the document on the retail licenses too that were able to get it. It will back sampling, throughout the entire document, back out and left as it currently is with no changes as a specialty, stand-alone supplemental license. Hearing no further discussions Stumbo called for a vote. All were in favor with no opposition. Stumbo asked again for any opposition? Hearing none motion carried.

#2- Souvenir:

Stumbo - This is only a distiller issue as it is specific to and only to Distiller's and distiller licenses: souvenir license bundled in or out of the distiller's license?

Chris Nolan – On this same proposal?

Stumbo – On distiller's license. This one only applies to you because nobody else can get that license. Do you wish it bundled in so those eligible to hold it can? Or remove it back out and allow it to remain a stand alone supplemental license as it is now for distillers?

Nolan – I was told we were fine either way, so we will keep it bundled in as written I guess.

Stumbo – It is currently bundled so when you say same is that un-bundled as it is now or bundled as it is in the document? Nolan he passed it to be bundled we will keep it bundled.

DECISION: Stumbo clarified the motion on the floor, final decision, is to keep souvenir bundled with the distiller's license but if possible to reduce that cost more equitably across the distiller's licenses to lower current costs and remain neutral. Stumbo called for a vote. All were in favor with no opposition. Motion carried.

Recommendation #19 – Licensing the Out-Of-State Producers of Liquor and Wine (pages 52-54 of recommendation document)

Stumbo – This item was proposed and passed, but we had two pending details assigned that needed additional work and to be decided today to finalize. Those were:

- What are the gallonage (or case) limits going to be?
- What would be the proposed cost of that license?

This issue (licensing out of state producers) addresses three specific issues:

- The broad issue of regulation (or de-regulation – depending on which way you look at it)
- Enforcement issues with being unable to producers/importers accountable and enforce Kentucky laws
- To correct a current existing inconsistency because we license out-of-state producers, large and small, on the malt beverage side, but not on liquor and wine

The two pending decisions on this recommendation today are gallonage and license cost. We received some recommendations from Department staff -Virginia Davis, who was tasked, and today's packet includes responses from her, Dan Meyer, Eric Gregory and others in regards to their position on the topic for the committee to read. These items were also provided to you in advance so hopefully everyone has reviewed the materials. What's in the proposed final recommendations document right now, since no other alternatives for the fee cost were received or proposed, the Department kept the license cost or fee at the same rates to mirror malt beverages for consistency, wherein large producers would pay the same as a large producers of malt beverage products, which is \$1,500 a year. Small producers would pay \$250 a year. We went by Mrs. Davis's recommended gallonage, which is 50,000 gallons being brought in. If it's 50,000 or under they are a little boy/small producer and they pay the \$250. If they are 50,000 gallons or more, they are a big boy/large producer and would pay the \$1,500. As I understand this gallonage size mirrors what we already do with small farm wineries. Correct?

Virginia - I came up with 50,000 from research through TTB and DISUSS some other internet sites. I didn't find a huge amount of evidence on where an exact cut off was. It seems to be because the small farm wineries are cut off at 50,000 to mirror that and that is what our other Kentucky Statutes use. You might get micro-distilleries and those people that might fall under that category and even they reference the small farm winery language in their arguments...

Stumbo – Who are also looking at mirroring the small farm winery language? Is that what you are saying?

Virginia-Yes this seemed to be best and would be consistent....

Larry Bond – I Want to speak in favor of it – not the cost issue whatever is fair, consistent and equitable will work- it is more of an enforcement and regulatory issue – because we license in-

state distillers and we don't license out-of-state distillers. We license out-of-state brewers/producers. You see the inconsistency issue. Also, the only way we have to regulate this industry, which must and will be regulated, is through the licensing process. If we have an out-of-state producer that doesn't want to comply with Kentucky law, I guess we could take them to criminal court or something but that as the sole option is no option for Kentucky. But currently our ABC Board has no way to regulate out-of-state distillers. They send letters warning for compliance but that does not appear to always be effective. Whatever is fair on the fee should make sense. This is not a lot of money that we are talking about annually for these companies. The important issue here is that we are able to regulate these out-of-state multi national corporations that are bringing thousands and thousands of products and gallons into the state that we don't currently cover under some sort of license like everyone else is required in the industry. We license beer, we license in-state distillers and we should also license out-of-state distillers/producers the same.. end of discussion on this point.

Stumbo – We had one proposal – if you read it – we proposed two licenses – large producers, small producers to mirror what is currently required for malt beverages– the recommendations and proposals received are included in your packet – there was also a proposal from a Committee member stating maybe we further break out the producers from large and small but for both types liquor and winethat maybe there was more like a large distiller, small distiller, large winery, small winery.....I cannot recall who made that proposal Dan? Gene?

Gene McLean – added that Chief of Staff Bond makes a very good point. This may be the most important recommendation the Committee and the Task Force has addressed. This is a regulatory issue without licensing all industry you have deregulated to a degree. As Rep. Clark and others in the General Assembly know, we dealt with this issue post Grand Holmes, which the Grand Holmes decision addressed alcohol laws that were discriminatory, meaning that you couldn't provide state benefits to in-state licensees as opposed to out-of-state. This is really in reverse, because what we are doing is discriminating against the in-state licensees by allowing out-of-states not to be licensed. This is not a situation where we claim lawsuit but a real one...There is a potential to face litigation on this issue if not addressed. The fees are really subsequent to the issue of licensing. I think we establish a fair and equitable license fee based on gallons, which we have done previously with in-state small farm wineries and larger producers, and we've done with malt beverages as well. Credit goes to Steve and the Department for discovering that loophole in the law and suggesting the change. It must be made. I would question anyone opposing this.

Stumbo asked Jitter Allen, as a representative of big producers, if he had any opposition or comments to share?

Jitter Allen – No opposition – it is a fairness issue – we completely support it

Dan Meyer – Only comment is the fee for the smaller producer (under 50,000) – the in-state small farm winery annual fee is \$100, and the out-of-state is \$250. I think this would be equitable.

Steve Humphress – Technically, they can avoid this fee because any out of state small farm winery knows they can get a Kentucky small farm winery license and not have to get this out of state producers license- because any out of state winery qualifies if they produce less than 50,000 gallons a year, which is the threshold for the proposal. So they can get the \$100 fee because they qualify for a small farm winery license.

Dan –We're okay with that.

Stumbo – If they can do what Steve has described and the staff advised that's the cheaper route, you are okay with leaving it as it is? Last call....

Dan – Yes

Sec. Vance – I am putting the motion to accept this recommendation back on the floor as it is written. We are only talking \$250 for the small and \$1,500 for the large. It's not any real money; it's the ability to control the license. I think the money is insignificant. I think we should stay with \$250 and \$1,500 the recommended gallonege and move this recommendation on.

Sen. Higdon – As far as administrative fees, if you have a license that's \$100 and it costs us the state \$250 to get them licensed, do we know, we need to know what our administrative costs are for processing and handling all these licenses and license types. You have a state investigator that must initially visit each licensee, there is a cost to that. You can't have an investigator visit these licensees for \$50?? Do our fees even cover the states actual administrative costs for the agency? I know this may not be the right point in the conversation to mention that but it needs to be said. Licensing costs regardless need to at least be at rates that cover the basic administration costs for the agency to issue and administer them.

Stumbo – Very valid point, and will need to come up again when we look at the licensing fee schedule. Currently the Departments budget is not broken down to show administrative costs. Actually, the licensing division the one made up of only 6 individuals generates the revenue that supports the entire Department, enforcement gets some program grants that bring in revenues but the revenue that supports and sustains the entire department is generated from licensing. The next revenue source also from licensing comes from any penalties assessed from violations. The Department looks at the overhead for the entire Department. It does not the costs associated with the Licensing Division but does not apply licensing revenue for just the licensing division, licensing revenue runs the shop the whole agency, it funds enforcement everything. As mentioned currently, we have only six positions that do all the licensing for the whole state. The division is under funded and under staffed. The Budget looks at the operation costs and overhead of those six people, and what we bring total in licensing revenues. We have never charged true administrative fees or processing fees on all licensing activities like licensing, brands etc. On that particular point and concern and confusion that we are going to charge a fee for brand registration or propose one, we are not. That's an example of where our office has extremely very large volume of paperwork for brands on a daily basis. It is free to submit a brand registration so the department does not recoup any costs for the work.

Maurice Brown – The only true administrative fee we have is for a denied license, which is \$50. Administrator Stumbo is accurate.

Bond – Are our fees sufficient enough to run our operation? Clearly run the office but does not appear its being reinvested in the licensing division as it should? When we started this Task Force and looking at ABC's operation, the premise was that we didn't want to get into a fee raising argument. But this is a glaring point. Our initial concern was we wanted to try to set a template that we could look actually look at alcohol laws in Kentucky and make some changes to them, which we haven't to do in fifty years or longer. A unified effort in partnership with public and private sectors to attempt to eliminate or reduce infighting and opposition so something might be able to get done. To do that, in a way where we bring together these industry and regulators in this task force environment to openly and transparently discuss these issues and try to make some positive changes. It was our hope there would not be the behind the scenes activities that usually go on with some industry groups. This is an important step. Changes are needed. The whole issue of how much regulation we need, or how many enforcement officers

we need, is when you look at the alcohol laws, our enforcement is heavily weighed toward the bottom of the three tier system at retailer and consumers and at underage drinking, checking licenses, and doing premises checks. The underage drinking is a very important and key issue but not our only regulatory enforcement responsibility. In a 3-tier system like we have in Kentucky and plan to keep, that is one piece of the alcohol industry and what we are charged to regulate. It has been many, many years, if ever, since we've had an enforcement officer unless prompted by a complaint, actually go to a producer and check their books to see if they are in compliance with the 3-tier system and all Kentucky laws and regulations, gallonage... just playing by the rules.. . It can be argued that part of the charge of the ABC Board is to look at all areas and players within the 3-tier system, and we don't do that well. The producer/importer level and the wholesaler/distributor levels need additional oversight. The Department and industry should take note this is an area that needs attention. We're trying to govern a very important industry of this state and one with serious public impact with laws that have been piece-milled together since prohibition. They don't work well; they are ambiguous at best. This is a start, and I defer to members of the General Assembly as to the difficulty of getting minor changes to alcohol laws and I realize their battles and challenges. Even behaviors of participants in this very room need to change. Eventually we will have to look at it all one way or another.

Stumbo- Not to cut you off but..... can I get you to close the issue on the floor which was licensing out of state producers? Sorry.....

Bond- Did you just cut me off?

Stumbo- Yes sir, I don't wish to be fired but as Chair I need to keep the meeting on task and moving, I am so sorry but.... I will probably be fired tomorrow. Sorry but please...

Vance - The motion that would handle this is that we make the separation by the proposed gallonage, keeping \$250 for the small and \$1,500 for the large, and move to approve with those allocations.

Stumbo – The decision has already been made to license out-of-state producers of liquor and wine I just want to be clear on this point again, that occurred at a previous meeting of this committee. The motion on the floor is that we move forward with the recommendation as presented to you today to mirror small farm wineries – 50,000 gallons or less pays \$250 – 50,000 gallons or more pays \$1,500. The licensing costs mentioned \$250 and \$1500 mirror the current costs for the similar licenses on the malt beverage side. These out of state producer/importer licenses are a one-time annual license of the corporation. Not a license for each brand. It has nothing to do with having to get this license for individual brands and there is no proposal to charge even a fee to register brands. I want to clear this issue up once and for all as it was a large part of the responses received in opposition.

Chris Nolan – Kentucky Distiller's are opposed to this at this time. We are not necessarily opposed to licensing out-of-state suppliers, but we think there needs to be no decision by this committee and there needs to be some more information put into this on how that would affect our Kentucky distilleries. We think it is an issue or item requiring additional review and discussions. With the large amount of bottling going on here in Kentucky, and effort the state has put on trying to expand the distillery operations for the state and bring it all into Kentucky. We don't want to have a duplicative license for our Kentucky distillers, and how this might affect the larger companies that are bringing in other products here that are creating Kentucky jobs, etc. We need think there needs to be more effort looking into how this would affect our distillery operations here in Kentucky. We oppose this.

Stumbo – Eric Gregory’s response is included in the packets distributed today and in the advance for committee members to review.

Bond – Is it a cost issue or a regulation issue? You don’t want to be regulated.

Nolan – It is both.

Bond – There is not a charge on brands. The cost is nothing to these companies in regards to the money they make in our state. As a very simple example....The big boys that are bringing in 140 kinds of vodka and 16 kinds of tequila, they are paying one license fee once a year. If the local people our Kentucky folks are required and already do it, I’m confused about why the locals would be concerned about duplicity or not want the out of state to comply to the same rules they have to? We are not going to double licenses. A Kentucky distiller is already licensed under their Kentucky Distillers license they would not have to get an out of state license, now it only applies if they are owned by another corporation who brings in additional brands not produced in Kentucky for retail sale those don’t even go to the Kentucky distillery they go on to the wholesaler and that is who needs a license and coverage of those other brands.

Stumbo – His problem is that....that some now most of our Kentucky distillers are foreign owned now a corporation owned by another corporation and they the Kentucky corporation hold an in-state production Kentucky Distiller’s License so can the parent corporation be covered under that for example? Or would the parent company and other corporations or importers have to hold the new license for all the other brands not produced at the Kentucky distille.....

Bond- I do not wish to hear from you let them answer, I want to hear their expiations and answers.

Stumbo- Eric is not here just trying to help them out to have their positions and questions heard...

Bond- Stop! Chris you speak

Nolan – The issue is a duplicative regulation and a duplicative fee. In addition, any additional costs are opposed as we have invested a lot of money in Kentucky. We aren’t sure how all that would work with the parent companies and with all the different brands as you mentioned ...vodkas and tequilas and everything else that are bottled here. We oppose.

Bond – Are they licensed now?

Nolan – No, we just have an in-state distillery license.

Bond – So the bottling operations are not licensed?

Stumbo – The local Kentucky distiller’s have appropriate licenses to do the bottling. This issue is not speaking to contractual arrangements in regards to parent companies and bottling its addressing who owns the brand who produces the brand and once done who has or owns that brand the producer or importer with the rights. It’s about the parent companies that produce products in another state, ship it in and it doesn’t go to a Kentucky distiller for anything, it’s going to Dan Meyer’s folks for retail sales. It is not about the brands and products produced in Kentucky and this license is not tied to every specific brand but one blanket license for the corporation for all of their brands.

Rep. Clark – This is all about fairness. When we passed the 6% tax here a couple of years ago, we treated the malt, liquor, etc. all the same. How can we tell our Kentucky businesses that we are going to regulate and charge them a fee for the privilege to sell their product in our communities and they must hold a license, but the out-of-state people can do whatever they want? I think we need to make this recommendation and move on.

Rep. Keene- Agree

Gene McLean- It is a issue of fairness.

DECISION: Stumbo clarified again, that the decision before the committee was not if we were going to license out of state producers for liquor or wine that decision has been made. The issue for decision today before the Committee is- The motion is: 50,000 or less is small producer and the licensing fee or cost is \$250 and 50,000 or more is large producer at \$1,500. This motion has been on the floor twice. Stumbo called for a second to the motion, which was received. She called for any opposition, Mr. Nolan opposed. The motion carried, with one opposition.

**** Stumbo noted for the record the opposition by Chris Nolan on behalf of Eric Gregory.*

****Chris Nolan - We are all for fairness, and believe very much in fairness. We just wanted to make sure that issue is taken into consideration as this recommendation moves forward, but we are all for making sure the in-state's and out-of-states are equalized but we will continue to oppose this recommendation*

****Stumbo objections so noted. Stumbo reminded the Eric Gregory's comments were in the packet for review and directed committee members to read those comments if they had not done so.*

Recommendation #20 - Review of proposed licensing fees and how we are going to do the schedule

Stumbo advised this is a brand new recommendation that the committee hasn't seen before. Chair Stumbo stated she is proposing this recommendation #20 and provided it to committee members prior to today's meeting and it was her hope that members reviewed it prior to today. Recommendation #20 is located on page 55 of the recommendations document.

Chair Stumbo thanked Karen Lentz for her attempt at running numbers related to licensing costs. Stumbo stated this recommendation was critical to the completion of the committee's work on the licensing structure and for the tasks of determining the new fee or licensing costs that could not be accomplished in the committee environment.

Stumbo – Rep. Clark requested that we ask industry to look the numbers, based upon the spreadsheet and the averages. Responses are in today's packet. Other than Ms. Lentz's attempts to look at numbers or costs for certain licensing types no other actual spreadsheets or proposed numbers were provided. There were some strong recommendations to consider of possible better approaches to reduce costs or keep them low if we are going to do some of the bundling, and share those costs across all licensees more equitably. We did not get enough additional numbers from the committee members to do or construct another spreadsheet utilizing the proposed costs they want. We all know and realize that to match the new proposed bundling and licensing structure we have to adjust licensing fees/costs. In the four months of our work, we have been unable to sit down and get a final version of the exact costs for each license type or how an overall cost scheme might look. In part we also need to work with the state OSBD, GAPS, LRC Budget staff. The proposed recommendation is listed in the last paragraph on page 55 of the recommendations document. Chair Stumbo asked the committee to read this paragraph and give comments. Stumbo tried to assure that key words from documents were used regarding distributing changes equitably and keeping costs down. We, the Department, do not want our fees so high that it would be a deterrent to this industry in our

state. We want to encourage sales and growth and to keep those fees as reasonable as possible, and share any increases equitably across, instead of one hammering one sector of an industry over another. I remind everyone that this is a necessity to accomplish the larger goals and changes to modernize the licensing structure not about raising costs just to make more money. In fact there have been no increases in Kentucky's ABC licensing costs in 15 years. Stumbo stated she needed the Committee's input on the new recommendations to continue to move the committee and all of its findings and final recommendations forward. That without the completion of recommendation 20 no changes could happen to implement the licensing recommendations that would modernize and streamline Kentucky's licensing structure.

Rep. Clark – I suggest we also put in the language that the Department will track these new licenses costs once implemented for one year to try to get a handle on them. Including the Departments administrative costs and also if we've overreached in some areas or under set the cost, and report that back to us. We the general Assembly can come back the next year and adjust them if needed. Honestly you cannot always get it exact. To give a comfort zone to everybody, we will look at this license fee for one year and make sure fairness across the board; make sure we have enough money to run the agency; and make sure that we can try to track the administrative fees. As Sen. Higdon said, the minimum license fee should be at least what it cost to administer that license and support the Department.

Stumbo – In addition to what is in the recommendation, there is a suggestion to add language that will speak to Sen. Higdon's comments but specifically address rep. Clarks request, specifically when the new licenses and costs are implemented, this language would require the department to track the licensing activity and fees/revenue etc for a one year period as well the administrative cost to handle and produce those licenses and Department costs, and then come back at the end of that year with a report to the General Assembly for any adjustments or short falls. Is this accurate? If so may I have a Second to add this language to what is currently recommendation #20?

Rep. Clark – Industry should continue to send real substantiated data to you to determine if a cost is out of bounds.

Stumbo- Do I have a second for the motion on the floor?

Vance- Second

DECISION: Chair Stumbo called for a vote: – The motion on the floor is to amend the proposed language in recommendation item #20, that *once the new fee structure is set and in implemented, the Department will track that for a one year period; report that to the General Assembly; and make any adjustments after one full year of being implemented – if something is causing a hardship, if we estimated too low and are not making the revenue threshold, etc.* No opposition to adding this language to the last paragraph of recommendation item #20. The motion was carried unanimously.

Sen. Higdon – Follow-up – We still have that issue about the class of city. There are so few of the 3rd and 4th class especially in the retail liquor drink.

Stumbo – As mentioned at my opening, we might have to go back and look at recommendation #2. This leads to recommendation item #2. Please turn back to it.

Recommendation #2 – Uniform licensing fees for the same licensing types regardless of class of city. (Page 8 of the recommendations document)

This is a recommendation the committee has already approved. It speaks to costs by class city and is the recommendation where Sen. Higdon's concern of increasing fees too high on 4th and 5th class, which concern was also echoed in Karen Lentz' response first falls. This issue is represented both here and once the budget entities set the final costs for licenses and fee schedule.

JD Chaney, KLC – On behalf of the cities, from the cities' prospective, it's a must broader policy issue throughout all of Kentucky Revised Statutes. We think this is the appropriate venue to try to address issues of class as it related to ABC in an ABC context. We are supportive of whatever the TF recommends with regards to state revenue. We are in support of this recommendation as written. We think it is important, and should be addressed, not just in this context, but throughout provisions of the statute. KLC's Board of Directors has instructed us to plow forward on this issue regardless, so we will have to continue to attempt to address it. Therefore we feel it should remain as a need and identified recommendation out of this task force in regards to ABC specific impacts. There's no fair way, when you start looking at the cities and counties, and their separate local licenses and local licensing fees, to keep everyone revenue neutral. There are 417 cities and 120 counties potentially impacted. With regard to the state revenue, we would like you to take the classes out. Chair Stumbo has done a great job of giving various options to do that.

Stumbo- Recommendation as Chair – we have passed item #2, Uniform Fees – it is noted again, in regards to keeping fees low, that when we take a median or an average, how it makes the lower classes go up. If you leave recommendation #2 in and we attempt to find some threshold that would not have severe punitive impacts as far as cost of fees on a class city, the recommendations are already there and we could move forward. If when the budget gets written and when we start trying to come up with licensing fees, and we find that a new cost needed would have a severe or serious impact and the goal cannot be accomplished, the fall back is already in place for this as well. The Department and budget staff just don't do it, never implement recommendation #2 and keep doing it the way we currently do it. You can bundle the licenses as proposed class city has no impact on that, and still, for those specific license types that are currently and would be affected by class city, continue to have a different cost by class. Budget staff would have to create that new cost but they could continue the scale of costs by class city as currently done by the Department now. That's what we already do, so if we can't come up with a new cost one cost for everybody for the same license that is not punitive or truly prohibited for 4th and 5th class to engage, then we can break it back out and have a different cost by class, and we didn't lose anything and we still bundled licenses, reduced the number and simplified them and they aren't impacted. There just might be a different cost by class city as it is now and that would be what we fail to accomplish for now.

Stumbo – KLC's recommendation is they would like to address city classifications we've already passed #2. Sen. Higdon has voiced his concern and wants everybody to be mindful that when we do recommendation #20, which is establish a fee structure, (and Karen recommended this in her comments as well), is that we be very careful in the increases and attempts to have one cost for every license regardless of city class. Because when you take an

average or a median, 4th and 5th class cities pay more and if too high to much, then assure the budget staff continues to break licensing costs out by city classification.

Karen Lentz – added that when looking at this, look at not just the state fee, but also how we are going to address local fees at the local county/city levels. The local fees are often even higher in some cases than the state fees. They range from \$1,200 to \$400, and the state is \$1,000 to \$400. So you are not just increasing the 4th, 5th, and 6th class city fees on the state level, you are, in some cases, doubling that on the local level unless we look to make some revision there. Stumbo – KLC proposes to disconnect the correlation between state and local, and that was in their written comments for everyone's review.

Sen. Higdon – To address the KLC's issue of taking away doing the license by class of city, we can find another way to do it. My concern is these doubling the cost of licenses in the smaller businesses. We can find a way to make them happy and make me happy too. Let's look at other strategies before a bill gets to the general Assembly.

Stumbo – Anybody that is here representing the retailers (the restaurants) would echo that concern I am sure. We can look to other strategies on determining costs of licensees. That just needs to be noted for the budget folks to consider and explore.

Gene McLean – I would suggest as you turn this over to the budget experts that the total fee structure, this is what may help in Sen. Higdon's case, be looked at in remaining revenue neutral not trying to remain neutral by license type. By licensing out-of-state suppliers, you are going to have a new revenue stream that you haven't had previously. As that goes, you may be able to keep the fees at the lower rate, in this particular case because of the influx of new dollars from licensing out-of-state suppliers. Everyone can not spend this new pot of money on all their ideas or to keep all existing licenses cheap but it is a new source of revenue to offset for something like this. You could take that component and add it to the overall budget. I suggest when the Budget Review Committee makes that recommendation, they need to take that into consideration.

Stumbo – That is factually accurate. It would address it because when we do our budget, is they have 5 million or whatever magic number, and it is just coded as licensing. It does not break it out by type. If they kept yours low, everybody low, and as long as at the end of the day, it still equals 5 million, we are revenue neutral and that could be applied to a new revenue stream.

Rep. Clark – I suggest you get with Sen. Higdon, KLC, and others effected and see if you can work something out to move this process forward.

Humphress – To clarify what JD Chaney is talking about, in the past there was a discussion about eliminating class cities in the state because they created so much confusion. ABC law is one of the few areas of law that it really matters in. There are all kinds of different rules depending on what class city – if you get this liquor license or not. All that would be eliminated if you were to eliminate those class cities. That's what JD is talking about. Their discussion is trying to eliminate.....

JD – Our Board has a difficult time understanding why it costs more to regulate something in Radcliff than down the street in Elizabethtown....what the difference is. If that's the cost of regulation, why? Why does the exact same license and privileges cost different. It creates serious issues between cities competitiveness and growth as well.

Mayor Bozarth – I agree we do not want city classifications. I also agree with Gene, that there will be a new revenue stream that is going to be coming in on licensing, and it I think it's a good idea that we sit down at the table and discuss this and find a fair and equitable solution to this

licensing issue for all cities, but we want it to be fair for all. The classification issue just muddles and more so in ABC laws than anything. I'm for sitting down at the table to figure this out.

Karen Lentz – Just for clarification – I did read JD's comments about separating out, but I don't understand - I do know there was an original request that theirs also be uniform on a local level. Are you saying now that you don't want to do that – so that is off the table?

JD – KLC is fine. As long as classification comes out of the state revenue (030) we are going to be supportive. We see that as a state issue and agree it needs changed. When you start getting into amending 060, which applies to counties, and 070, which applies to cities with these four or five different types based on classification, we can't engage in this revenue neutrality concept because you have 120 counties and 417 cities potentially impacted. At this point, our recommendation on 060 and 070 is to keep a separate class of consolidated local government, because it's not a class – keep their fee the same and not put it into an average, and bring it up to 2nd class, which does raise the local fees in each of those categories that are based on classification. That would be our proposal at this time and working with KACo, I anticipate some issues with that. Otherwise, we won't be able to find a revenue neutral way. We don't have the flexibility that the state is going to have to do that because you aren't just dealing with one revenue collectively but the state change should be made regardless and then figure out the county/city adjustment required.

Karen – In the original recommendation, it was that the local taxes also be uniform. I just wanted to get clarification that was still your position.

JD – Yes, we would like to see that.

Stumbo asked are there any changes to recommendation #2. Hearing none she stated recommendation stands. Stumbo then called for the final overall vote of the revised recommendation #20 in its totality. She reminded the initial vote passed was only to amend the recommendation to add the language requested by Rep. Clark, she stated she now needed the Committee's final vote on the total recommendation as amended. Stumbo called for a motion to approve, with that new language added, the amendment to approve recommendation item #20, which would task OSBD, GAPS, the Department, etc. to sit down and intensely look at the fee schedule. A motion was made, and seconded. All were in favor with no opposition. Recommendation #20 passed unanimously.

DECISION: Recommendation item #20 – Passed– you've approved a motion to amend it as written to add Larry Clark's language that whatever fee schedule we get, the Department would be tasked for tracking and studying for one year; make a report back to the General Assembly; and identify actual administration costs.

Last item in the recommendations document is a new introduction (summary) on pages 2, 3, 4, and 5.

Stumbo called for any corrections or edits to the summary. She added that if there is anything in the summary that members are uncomfortable with, or if there is anything in the summary that members feel was focused on or talked about but is not covered in the recommendations that is really important that should be in the intro to our committee's report to the Task Force, to please let her know. This is going to feed into the large Task Force's main report. If there is something

that needs to be in there, she needs to know. On the acknowledgements, these were non-Task Force members acknowledged. Stumbo does not want that to deter that people like Jennifer Doering and Roger Leasor who are Task Force members that attended meetings outside regular committee meetings and tried to help us do the prep work. Stumbo wanted to publicly say that help was very much appreciated.

Stumbo again called for any item that needs to be highlighted or pressed. Not hearing any Chair Stumbo stated the recommendations document was now final.

Next Meeting Date(s): This is the final meeting of the Licensing Committee, at the request of Task Force Chairman Vance. The Task Force will meet on December 13, 2012 at 9:00 a.m. at the offices of the Department for Local Government, 1024 Capital Center Dr., Ste. 340, Frankfort, Kentucky.

Closing Comments: On behalf of the Governor's Office, the Task Force, the Cabinet, and the Department we thank you for participation on this Committee. Chair Stumbo also thanked each participant for their vast commitment of time, and all their expertise. Their willingness to have healthy debates. She stated this was much appreciated for the betterment of the group and to the end result and recommendations put forth. She thanks everyone for their commitment of time and the patience they showed. Stumbo stated she realized that it was a large volume of information and materials compressed and that she had to push the group to work through it. She stated the four months and all the meetings have been a challenge and a pleasure.

Larry Bond thanked Chair Stumbo, Steve Humphress, and the staff of the Department of Alcoholic Beverage Control who staffed the committee that spent many hours putting materials together for each meeting. Bond stated this was the most challenging committee with the most to take on and credits their success and accomplishments to the Chair and Steve.

Adjournment: The Licensing Committee meeting was adjourned at 10:15 a.m.